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Peter Stangel

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GREENBERG TRAURIG, LLP  
2101 L Street, N.W.  
Suite 1000  
Washington, DC 20037

EXAMINER

COBANOGLU, DILEK B

ART UNIT

PAPER NUMBER

3626

NOTIFICATION DATE

DELIVERY MODE

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ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

dcpatdkt@gtlaw.com  
andersonn@gtlaw.com

<b>Office Action Summary</b>	<b>Application No.</b> 09/772,394	<b>Applicant(s)</b> STANGEL, PETER	
	<b>Examiner</b> DILEK B. COBANOGLU	<b>Art Unit</b> 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 37-68 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 37-68 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/03/2008 has been entered.

## **New Matter**

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 37-46, 58-61 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Amended Claims 37, 45 and 58 recite “transmitting, via a network, the navigation module, the verification module and the user interface from the server to a client device”. In particular, Applicant does not point to, nor was the Examiner able to find, any support for “transmitting, via a network, the navigation module, the verification module and the user interface from the server to a

Art Unit: 3626

client device” feature within the specification as originally filed. The specification recites: par. [0033] FIG. 1 illustrates the logical arrangement of modules in a utilization system in accordance with the invention. The modules include a user interface 20, a navigation module 21, and a verification module 22. The user interface 20 generates the user screens with which the user interacts to submit or review data. The user interface is preferably coupled to a communication link (not shown) that receives user commands and data from a network connection.

4. As such, Applicant respectfully request to clarify the above issues and to specifically point out support for the newly added limitations in the originally files specification and claims.

5. Applicant is required to cancel the new matter in the reply to this Office Action.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 37-45, 47-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell et al. (hereinafter Campbell) (U.S. Patent No. 6,047,259) in view of Hayward et al. (hereinafter Hayward) (U.S. Patent No. 5,574,828).

A. Claim 37 has been amended now to recite A method for collecting patient clinical encounter information comprising the steps of:

- i. storing, on a computer-readable medium operatively connected to a server (Campbell; abstract), computer- executable instructions comprising:
  - a) a navigation module (Campbell; col. 14, lines 3-35, Figure 9-10);
  - b) a verification module (Campbell; col. 5, lines 33-61); and,
  - c) a user interface comprising a plurality of fields, the arrangement of the plurality of fields being fixed and arranged as on a clinical chart (Campbell; col. 3, line 45 to col. 4, line 11, col. 14, lines 19-29, Figure 5);
- ii. transmitting, via a network, the navigation module, the verification module and the user interface from the server to a client device (Campbell; col. 3, line 65 to col. 4, lines 11);
- iii. causing the client device to display the user interface, including the plurality of fields, within a single screen to a user, the user interface facilitating the entry of patient clinical encounter information into the plurality of fields by not requiring the user to scroll the user interface within the single screen (Campbell; col. 13, lines 58-65, Figure 5);
- iv. receiving, via the user interface displayed on the client device, patient clinical encounter information from the user (Campbell; col. 13, lines 58-65, Figure 5);
- v. causing the navigation module on the client device to modify the contents of at least one of the plurality of fields in response to the received

patient clinical encounter information (Campbell; abstract, col. 2, lines 14-21);

vi. receiving, via the user interface displayed on the client device, at least one diagnosis selected by the user via the user interface (Campbell; col. 14, lines 3-35, Figure 9-10);

vii. causing the verification module on the client device, to determine an authorization level for the at least one diagnosis by referring to the contents of at least a subset of the plurality of fields (Campbell; col. 5, lines 33-61); and,

viii. receiving on the server, via the network, the patient clinical encounter information and the at least one diagnosis from the client device after the determination of the authorization level for the at least one diagnosis by the verification module (Campbell; col. 14, lines 19-29, col. 5, lines 33-61, Figure 5).

Campbell fails to expressly teach at least one of the fields comprising a pop-up list. However, this feature is well known in the art, as evidenced by Hayward.

In particular, Hayward discloses at least one of the fields comprising a pop-up list (Hayward; col. 16, line 49 to col. 17, line 3).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as

disclosed by Hayward with the motivation of generating second program automatically based on the answers to the questions (Hayward; abstract).

B. Claim 38 has been amended now to recite the method of claim 37, the computer- executable instructions stored on the computer-readable medium and transmitted to the client device further comprising instructions for one or more criteria corresponding to a diagnosis, the criteria being displayed to the user in at least one of the plurality of fields (Campbell; col. 14, lines 30-52).

C. Claim 39 has been amended now to recite the method of claim 38, the computer- executable instructions stored on the computer-readable medium and transmitted to the client device further comprising instructions for determining of an authorization level by referring to the criteria (Campbell; col. 5, lines 35-61).

D. Claim 40 has been amended now to recite the method of claim 37, the computer- executable instructions stored on the computer-readable medium and transmitted to the client device further comprising instructions for a rule database, the rule database being employed by the verification module when determining the authorization level on the client device (Campbell; col. 6, lines 23-36).

E. Claim 41 has been amended now to recite the method of claim 40, the rule database storing at least two levels of rules, the levels comprising:

Art Unit: 3626

- i. a criteria level, the criteria level rules determining a criteria status by referring to data from at least one of the plurality of fields (Campbell; col. 16, line 66 to col. 17, line 7); and,
- ii. a diagnosis level, the diagnosis level rules determining a diagnosis authorization level by referring to the criteria status of at least one criteria level rule (Campbell; col. 5, lines 33-61 and col. 17, lines 8-10).

F. Claim 42 has been amended now to recite the method of claim 37, at least a subset of the plurality of fields being related in a hierarchical manner, the navigation module changing the content of at least one of the plurality of fields based on selections made therein by the user (Campbell; col. 12, line 59 to col. 13, line 18).

G. Claim 43 has been amended now to recite the method of claim 42, the verification module further comprising a plurality of criteria rules, the verification module evaluating the criteria rules to determine whether the patient clinical encounter information meets one or more criteria for determining an authorization level (Campbell; col. 5, lines 33-61).

H. Claim 44 amended now to recite The method of claim 37, the instructions being transmitted via the Internet.

I. Claim 45 has been amended now to recite A method for facilitating the submission of a clinical record for automated processing, comprising the steps of:



- i. storing, on a computer-readable medium operatively connected to a server (Campbell; abstract), computer- executable instructions comprising:
  - a) a navigation module (Campbell; col. 14, lines 3-35, Figure 9-10);
  - b) selection interface comprising a plurality of fields within a single, the selection interface facilitating selection by the user of a plurality of predetermined clinical data types, the predetermined clinical data types comprising data necessary for creating at least a record of the symptoms associated with a patient and a diagnosis (Campbell; col. 13, lines 58-65, Figure 5);
- ii. transmitting, via a network, the navigation module and the selection interface from the server to a client device (Campbell; col. 3, line 65 to col. 4, lines 11);
- iii. causing the client device to display the selection interface to a user (Campbell; col. 3, lines 35-47, col. 1, lines 62 to col. 2, line 13, col. 13, lines 58-65, Figure 5);
- iv. receiving a selection from the selection interface (Campbell; col. 1, lines 62-64, col. 3, lines 55-64, Figures 5, 9, 10, 13); and,
- v. causing the navigation module on the client device to add at least one data field in response to the selection, the data field being selected by a navigation module, to the displayed selection interface, the data field being quantified and associated with an objective criteria, the data field

facilitating automated processing of the clinical record (Campbell; col. 12, lines 13-20, Figure 4-5).

J. Claim 47 has been amended now to recite computer readable media having instructions for facilitating the submission of a clinical record for automated processing tangibly stored thereon, the instructions, when executed by a computer, comprising instructions for:

- i. receiving a diagnosis from a user via a user interface running on a client device (Campbell; col. 14, lines 19-52, Figure 5);
- ii. receiving a criteria selection from the user via the user interface, the criteria being selected from a pre-defined list of criteria associated with the diagnosis, the criteria associated with a rule required for confirming the diagnosis, the criteria associated with at least one finding (Campbell; col. 16, lines 43-54);
- iii. receiving data from the user via the user interface corresponding to at least a subset of the at least one finding associated with the user selected criteria (Campbell; col. 12, line 59 to col. 13, line 20);
- iv. causing the client device to verify, without interaction with a server, that all necessary data associated with the diagnosis has been received from the user (Campbell; col. 12, line 59 to col. 13, line 20);
- v. causing the client device to transmit the data received from the user to the server to facilitate creation by the server of an electronic clinic

Art Unit: 3626

record based on the data (Campbell; col. 12, line 59 to col. 13, line 20 and col. 17, lines 8-10).

K. Claim 48 recites the computer readable media of claim 47, the data being transmitted from the client to the server via the Internet (Campbell; col. 5, lines 19-32).

L. Claim 49 recites Computer readable media having instructions for providing a user interface for entering data for evaluating a clinical encounter tangibly stored thereon, the instructions, when executed by a computer, comprising instructions for displaying a user interface, the user interface comprising an interactive set of lists, each of the lists in the interactive set of lists having its own domain, and each of the lists in the interactive set of lists being displayed as a separate pop-up button list within a single screen, at least a subset of the lists being hierarchically related, the interactive set of lists being formatted to be similar to a clinical chart (Campbell; col. 17, lines 46-52, Figure 10, col. 12, line 59 to col. 13, line 20, col. 1, line 62 to col. 2, line 13)..

M. Claim 50 recites the computer readable media of claim 49, the user interface further comprising a display area, the display area displaying a parameter and at least one corresponding finding, each parameter being displayed proximate to the associated at least one finding (Campbell; col. 16, line 66 to col. 17, line 7, Figure 5). Examiner considers that observations would include related parameters.

Art Unit: 3626

N. Claim 51 recites the computer readable media of claim 49, the user interface further comprising a data entry area, the data entry area being adapted to facilitate entry of a plurality of findings for a parameter (Campbell; col. 13, line 58 to col. 14, line 8, Figure 5).

O. Claim 52 recites the computer readable media of claim 49, the interactive set of lists further comprising at least four pop-up button lists, the at least four pop-up button lists comprising at least one of each of an element pop-up button list, a system/group pop-up button list, a parameter pop-up button list, and a finding pop-up button list (Campbell; col. 12, lines 14-21, col. 12, line 59 to col. 13, line 18, Figure 4).

The obviousness of modifying the teaching of Campbell to include the pop-up button list (as taught by Hayward) is as addressed above in the rejection of claim 37 and incorporated herein.

P. Claim 53 recites the computer readable media of claim 52, the instructions further comprising instructions for: relating the at least four lists hierarchically (Campbell; col. 12, line 59 to col. 13, line 18, Figure 4); and

i. relating the at least four lists hierarchically (Campbell; col. 12, line 59 to col. 13, line 18, Figure 4); and

ii. receiving a selection in list and populating at least the next lower list in the hierarchy (Campbell; col. 12, line 59 to col. 13, line 18, Figure 4).

- The obviousness of modifying the teaching of Campbell to include the pop-up button list (as taught by Hayward) is as

addressed above in the rejection of claim 37 and incorporated herein.

Q. Claim 54 recites the computer readable media of claim 52, the instructions further comprising instructions for:

- i. receiving an entry in the element button list and populating the system/group button list with available entries (Campbell; col. 12, line 59 to col. 13, line 18);
  - ii. receiving an entry in the system/group button list and populating the parameter button list with available entries (Campbell; col. 13, line 58-65);
  - iii. receiving an entry in the parameter button list and populating the finding button list with available entries (Campbell; col. 13, line 58 to col. 14, line 8); and
  - iv. receiving an entry in the finding button list and performing one of:
    - a) entering the selecting finding with the selected parameter into a chart note data field in the user interface (Campbell; col. 13, line 58 to col. 14, line 8); and,
    - b) prompting the user to enter a numeric value associated with the finding and entering the finding, numeric value, and selected parameter into a chart note data field in the user interface (Campbell; col. 13, line 58 to col. 14, line 8).
- The obviousness of modifying the teaching of Campbell to include the pop-up button list (as taught by Hayward) is as

addressed above in the rejection of claim 37 and incorporated herein.

R. Claim 55 recites the computer readable media of claim 54, the instructions further comprising instructions for:

- i. receiving a selection in a criteria button list (Campbell; col. 12, line 59 to col. 13, line 18 and col. 13, line 58 to col. 14, line 8); and
- ii. populating the element button list, system/group button list, parameter button list, and finding button list based upon the selection (Campbell; col. 12, line 59 to col. 13, line 18 and col. 13, line 58 to col. 14, line 8).

- The obviousness of modifying the teaching of Campbell to include the pop-up button list (as taught by Hayward) is as addressed above in the rejection of claim 37 and incorporated herein.

S. Claim 56 recites the computer readable media of claim 55, the instructions further comprising instructions for entering diagnosis-relevant data either by:

- i. receiving a criteria list selection and prompting the user to make a selection in the finding list (Campbell; col. 13, line 58 to col. 14, line 8, Figure 4-5); or
- ii. receiving a criteria list selection and prompting the user to enter a numerical value (Campbell; col. 13, line 58 to col. 14, line 8, Figure 4-5).

- The obviousness of modifying the teaching of Campbell to include the pop-up button list (as taught by Hayward) is as addressed above in the rejection of claim 37 and incorporated herein.

T. Claim 57 recites the computer readable media of claim 56, the instructions further comprising instructions for:

- i. receiving a selection in an additional information list (Campbell; col. 13, line 58 to col. 14, line 8, Figure 4-5); and
- ii. setting the element list, the system/group list, parameter list, and finding list based upon the selection (Campbell; col. 13, line 58 to col. 14, line 8, Figure 4-5).

- The obviousness of modifying the teaching of Campbell to include the pop-up button list (as taught by Hayward) is as addressed above in the rejection of claim 37 and incorporated herein.

U. Claim 58 has been amended now to recite A method for collecting patient clinical encounter information comprising the steps of: Computer readable media having instructions for providing a patient clinical encounter information collection system tangibly stored thereon, the instructions, when executed by a computer, comprising instructions for:

- i. storing, on a computer-readable medium operatively connected to a server (Campbell; abstract), computer- executable instructions comprising:

- a) at least one form (Campbell; col. 5, lines 33-38, Figures 3-7);
  - b) a first set of rules (Campbell; col. 6, lines 23-36); and,
  - c) a second set of rules (Campbell; col. 16, line 66 to col. 17, line 7);
- ii. transmitting, via a network, the at least one form, the first set of rules, and the second set of rules to a client device (Campbell; col. 3, line 65 to col. 4, lines 11);
- iii. causing the client device to display the at least one form (Campbell; col. 12, lines 13-20);
- iv. configuring at least a first subset of the at least one forms to apply the first set of rules to at least a first subset of inputs entered into the first subset of forms (Campbell; col. 6, lines 23-30);
- v. configuring at least a second subset of the at least one form to apply the second set of rules to at least a second set of inputs entered into the second subset of forms (Campbell; col. 16, line 66 to col. 17, line 7);
- vi. receiving patient clinical encounter data from at least one user via the at least one form displayed on the client device (Campbell; col. 16, lines 33-54);
- vii. causing the client device to process the received patient clinical encounter data on the client device in accordance with the first and second set of rules (Campbell; col. 6, lines 23-36, col. 16, line 66 to col. 17, line 7).



V. Claim 59 has been amended now to recite the method of claim 58, the first subset of forms and the second subset of forms being the same (Campbell; col. 6, lines 23-36, col. 16, line 66 to col. 17, line 7).

W. Claim 60 has been amended now to recite the method of claim 58, the first set of rules are further configured to be applied when the first subset of inputs is received and the second set of rules are further configured to be applied when the second subset of inputs is received (Campbell; col. 6, lines 23-36, col. 16, line 66 to col. 17, line 7).

X. Claim 61 has been amended now to recite the method of claim 58, the instructions being transmitted via the Internet (Campbell; col. 5, lines 19-32).

Y. Claim 62 recites Computer readable media having instructions for providing a facilitating the single screen submission of patient clinical encounter information tangibly stored thereon, the instructions, when executed by a computer, comprising instructions for:

- i. providing a clinical element selection interface, the clinical element selection interface facilitating the selection of a clinical element, the clinical elements comprising at least one of history and exam (Campbell; col. 13, lines 58-65);
- ii. providing a system/group selection interface, the system/group interface facilitating the selection of a system/group associated with the selected clinical element, the system/group interface being populated

based upon the selected clinical element (Campbell; col. 13, line 66 to col. 14, line 8);

iii. providing a parameter selection interface, the parameter selection interface facilitating the selection of a parameter associated with the selected system/group, the parameter selection interface being populated based upon the selected system/group (Campbell; col. 13, line 66 to col. 14, line 8, Figure 5);

iv. causing a client device to display the clinical element selection interface, the system/group interface and the parameter selection interface within a single screen (Campbell; col. 13, line 66 to col. 14, line 8, Figure 5).

Z. Claim 62 recites Computer readable media having instructions for determining the appropriateness of patient clinical encounter information tangibly stored thereon, the instructions, when executed by a computer, comprising instructions for:

i. causing a client device to display a criteria selection interface to a user, the criteria selection interface allowing the user to select a diagnosis-based criteria (Campbell; col. 16, lines 33-42);

ii. receiving diagnosis related data from the user (Campbell; col. 16, line 66 to col. 17, line 10);

iii. causing the client device to apply a verification rule to the received diagnosis related data, the verification rule providing a verification result,

the verification result providing an authorization level for each selected criterion in the criteria selection interface (Campbell; col. 16, line 66 to col. 17, line 10).

AA. Claim 64 recites the computer readable media of claim 63, the instructions further comprising the client device retrieving the criteria selection interface from a server via the Internet (Campbell; col. 5, lines 19-32).

BB. Claim 64 recites the computer readable media of claim 63, the instructions further comprising instructions for presenting the criteria selection interface in a clinical format that is familiar to clinicians and healthcare reviewers (Campbell; col. 3, lines 35-47, col. 16, lines 23-30).

CC. Claim 65 recites the computer readable media of claim 63, the instructions further comprising instructions for displaying the criteria selection interface to the user within a single screen such that the user does not have to ~ scroll within the single screen while selecting criteria (Campbell; col. 13, lines 58-65, Figure 5).

8. Claim 46 is rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell et al. (hereinafter Campbell) (U.S. Patent No. 6,047,259), Hayward et al. (hereinafter Hayward) (U.S. Patent No. 5,574,828) and further in view of Kaker et al. (hereinafter Kaker) (U.S. Patent Publication No. 2001/0037218 A1).

A. As per amended claim 46, Campbell discloses the method of claim 45.

Campbell fails to expressly teach at least one data field are provided via an HTML web page on the Internet. However, this feature is well known in the art, as evidenced by Kaker.

In particular, Kaker discloses at least one data field is provided via an HTML web page on the Internet (Kaker; paragraphs: 0055-0056).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by Kaker with the motivation of medical professionals, hospitals, organizations to access letters and forms (Kaker; paragraph: 0004).

9. Claims 67 and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell et al. (hereinafter Campbell) (U.S. Patent No. 6,047,259), Hayward et al. (hereinafter Hayward) (U.S. Patent No. 5,574,828) and further in view of Cummings, Jr. (hereinafter Cummings) (U.S. Patent No. 5,301,105).

A. As per newly added claim 67, Campbell discloses a computer readable media having instructions for an electronic clinical record creation and review system tangibly stored thereon, the instructions, when executed by a computer, comprising instructions for:

- i. causing a client device to display a user interface, the user interface prompting the user for clinically relevant inputs (Campbell; col. 3, line 45 to col. 4, line 11, col. 14, lines 19-29, Figure 5);
- ii. receiving clinically relevant inputs from the user, the clinically relevant inputs comprising a diagnosis and at least one patient symptom,

the at least one symptom being clinically relevant to the diagnosis

(Campbell; col. 1, line 62 to col. 2, line 13);

iii. causing the client device to verify, without interaction with a server,

that all necessary data associated with the diagnosis has been received from the user;

iv. causing the client device to verify, without interaction with a server,

the diagnosis by ensuring that sufficient symptoms have been received to

satisfy at least one authorization criteria, wherein the at least one

authorization criteria has been set by a health care reviewing organization

(Campbell; col. 1, line 62 to col. 2, line 13);

v. causing the client device to generate an electronic clinical record on

the client device (Campbell; col. 1, line 62 to col. 2, line 13); and

vi. causing the client device to transmit the electronic clinical record to

the health care reviewing organization for review; and

Campbell fails to expressly teach transmit the electronic clinical

record to the health care reviewing organization for review.

However, this feature is well known in the art, as evidenced by

Cummings.

In particular, Cummings discloses transmit the electronic clinical

record to the health care reviewing organization for review

(Cummings; abstract and col. 2, line 65 to col. 3, line 2).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by Cummings with the motivation of improving diagnosis, treatment and cost effectiveness (Cummings; col. 3, lines 3-6).

B. As per newly added claim 68, Campbell discloses the computer readable media of claim 67, the instructions further comprising instructions for transmitting the electronic clinical record via the Internet (Campbell; col. 5, lines 33-61).

### ***Response to Arguments***

10. Applicant's arguments filed 12/03/2008 have been fully considered but they are not persuasive. Applicant's arguments will be addressed below in the order in which they appear.

A. In response to Applicant's argument about none of the references teach "transmitting, via a network, a navigation module, a verification module and a user interface having at least one pop-up list from the server to a client device"; Examiner respectfully submits that this new limitation is rejected under 112, second paragraph, for being new matter as explained above. Campbell teaches "a software system for managing healthcare practice including a server and client computers...The medical system software of the invention may be ported to other computer system configurations..." in abstract and col. 3, line 65 to col. 4, line 11.

B. In response to Applicant's argument about Campbell does not teach "a verification module on the client device that determines an authorization level for

Art Unit: 3626

at least one diagnosis”; Examiner respectfully submits that Campbell teaches “The computers are distributed throughout the hospital and are designed to provide access to some common functions as well as some special purpose functions unique to the particular computer. Some of the client computers have special attributes that enable them to perform functions relevant to the part of the hospital where they are located: 1) the reception computer 204 checks clients and patients in and out of the office and handles billing functions; 2) the exam room computers 208-210 are used by doctors and nurses to conduct medical examinations, to make diagnoses, and select a treatment protocol; 3) surgery/treatment computers 212 are located at surgery and treatment areas in the hospital and provide patient status data (e.g., traffic control, patient triage information such as names of patients, status, presenting complaint, to-do lists) as well as similar functions as the exam room computers 208-210; 4) the lab computer 214 interfaces with lab equipment and is used to enter information from lab tests; and 5) the pharmacy computer 216 is used to fill prescriptions, conduct inventory control on pharmaceuticals and medical supplies, order supplies, and provide database search functions.”. Applicant states “the standard authorization level for a patient in a hospital is “acute level of care”, however the authorization for a patient in an intensive care unit would be “intensive level of care”. Campbell teaches that client computers have special attributes that enable them to perform functions relevant to the part of the hospital where they are located, therefore these computers different levels of authorizations for diagnosis of a patient.

Art Unit: 3626

C. In response to Applicant's statement about "Examiner has failed to particularly point out how Hayward renders the Applicant's use of pop-up lists as claimed obvious" Examiner respectfully submits that according to MPEP section 2141 "The Supreme Court further stated that: When a work is available in one field of endeavor, design incentives and other market forces can prompt variations of it, either in the same field or a different one. If a person of ordinary skill can implement a predictable variation, § 103 likely bars its patentability. For the same reason, if a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond his or her skill. *Id.* at \_\_\_, 82 USPQ2d at 1396.

D. In response to Applicant's argument about Campbell does not teach "a system having a criteria associated with rules required for confirming diagnoses that have been entered by a user" ; Examiner respectfully submits that the claims recites: "receiving a criteria selection from the user via the user interface, the criteria being selected from a pre-defined list of criteria associated with the diagnosis, the criteria associated with a rule required for confirming the diagnosis, the criteria associated with at least one finding" and Campbell teaches "When the physical exam is complete, the doctor can proceed to a diagnosis screen. FIG. 9 illustrates an example of the diagnosis screen. This screen is displayed in response to the doctor certifying that the exam is complete as explained above. The diagnosis screen includes the patient banner 902, a box



for displaying abnormal observations 904, a box for displaying a rule out list 906, and a box for displaying tentative diagnosis 908. The box 910 labeled as "unresolved symptoms" keeps a running total of symptoms that are not linked to a diagnosis. The diagnosis screen also includes a number of navigational controls used to navigate to other parts of the system or to launch other features. These controls include: 1) a "search for diagnosis" button 912 that launches the interface to a database search tool for keyword searching the system's list of diagnosis, 2) a "protocol" button 914 which launches a service for applying a protocol to the patient given the tentative diagnosis selected in the diagnosis screen, 3) a healthy pet button 916 which enables the team member to indicate that no diagnosis or treatment protocol need be selected, and 4) an exit button 918 used to exit the diagnosis screen and return to the main window of the client software." in col. 16, lines 43-54.

### ***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DILEK B. COBANOGU whose telephone number is (571)272-8295. The examiner can normally be reached on 8-4:30.
12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher L. Gilligan can be reached on 571-272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3626

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dilek B Cobanoglu/  
Examiner, Art Unit 3626  
4/3/2009

/Robert Morgan/  
Primary Examiner, Art Unit 3626